IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2967 OF 2006.

Nizamuddin Abdul Rauf Khan .. Applicant
V/s
The State of Maharashtra ..Respondent.

Mr. Raina Bhatt with Mr. Sahid Azmi for the applicant
Miss Rajashri M.Gadhvi, A.P.P. for the State.

CORAM : S.C. DHARMADHIKARI, J.

DATE : 19TH SEPTEMBER, 2006.

P.C.

. Perused the application and the annexures thereto.

2. On the earlier occasion I had passed an order calling for report from the learned Special Judge, who has been assigned the instant Special Case.

3. Accordingly the learned Judge, Special Court-II under MCOC Act has forwarded his report on 8th September, 2006.

4. A perusal of the said report indicates that the learned Special Judge has assigned several reasons for

the trial not proceeding further. At the same time, he requests that Special Case No. 16/2001 be removed from the expedited list and he may be permitted to dispose of it in normal course. However, he has assured that every attempt will be made to hold the trial as expeditiously as possible.

5. In my view, in the light of the contents of this report, the request, that a time bound case which is pending from 2001 be taken of from the expedited list, cannot be acceded to and granted. That request is specifically rejected. The learned Judge has, as is apparent from the copies of the Rozanama, reminded the prosecution of its duties to produce the witnesses on time. He also brought to the notice of the prosecution and all concerned that accused Nos. 2 and 6 in the said Special Case are presently taken to Varanasi for the trial of a Sessions case have not been retransferred or made over to the custody of the investigating machinery in-charge of the Special Case.

6. It is for the prosecution to take such decision as is permissible in law with regard to several aspects which are noted by the learned Special Judge in his

report. Equally, it is for the learned advocate appearing for the applicant to adopt such proceedings as are permissible in law. However, for these reasons, special case which is pending for last more than 5 years cannot be consigned to a Dormant file or De-expedited. That would be wholly contrary to the earlier orders of this Court. Hence, the trial Judge is requested to expedite the hearing of the case. The learned Judge to endeavour and dispose of the same by the end of September, 2007. Time is accordingly extended upto 30th September, 2007.

. Application is disposed of.

(S.C.DHARMADHIKARI, J.)